

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2003-0053

FOR

JOHN R. BRAUN
AND
THE COUNTY OF HUMBOLDT
FIFTH AND J STREETS
EUREKA, CALIFORNIA

Humboldt County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board) finds that:

1. Frank J. and Persia E. Roberts, now both deceased, operated Eureka Cleaners, a dry-cleaning business, from 1948 to 1973, at 918 Fourth Street, near the corner of Fourth and J Streets, in Eureka, California, hereinafter referred to as the Site (Attachment A).
2. A gasoline service station operated in the 1940's on the southeast corner of the intersection at Fourth and J Streets in Eureka, California. Two underground storage tanks (USTs), formerly used to store gasoline, were removed from the Site on August 11, 1971.
3. Dry-cleaning activities, that occurred at the Site, included the use of the chlorinated solvent tetrachloroethylene, also known as Perchloroethylene, Perc, and PCE. Operations at Eureka Cleaners reportedly included the collection of PCE condensate, which discharged through a pipe to a dry-well, located at the rear of the facility. PCE is a suspected carcinogen and is listed by the State of California pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 as a chemical known to the State to cause cancer.
4. Commercial businesses other than dry-cleaning and fuel dispensing operated at the Site between 1974 and 1993. Mr. John R. Braun purchased the Site on December 10, 1975. Mr. Braun sold the Site to the County of Humboldt on December 16, 1993, for construction of a new jail. Mr. Braun and the County of Humboldt are hereinafter collectively referred to as "Dischargers."
5. In 1994, during construction of the new jail facility, soil contaminated with gasoline and PCE was encountered at the Site. Prior to completion of development activities, approximately 60 cubic yards of gasoline contaminated soil and 270 cubic yards of PCE contaminated soil were excavated and removed for offsite disposal.
6. Shallow site groundwater testing in 1994 near the former dry-cleaning operations revealed PCE contamination at 5,500 parts per billion (ppb) downgradient of the suspected dry-well area that had received discharges of PCE condensate.
7. Regional Water Board staff contacted John R. Braun and the County of Humboldt in writing eight times between 1993 and 1997 requesting the submittal of a preliminary site

assessment workplan to determine the extent of soil and groundwater contamination. No workplan was submitted.

8. On September 2, 1997, the Executive Officer issued Cleanup and Abatement Order 97-100 (Order 97-100), which required the collection of technical data to define the vertical and horizontal extent of Site contamination. A limited assessment of shallow groundwater occurred in late 1999 and early 2000 to comply with some provisions of Order 97-100. However, the Dischargers did not fully comply with the Order 97-100. The limited investigation performed in accordance with Order 97-100 included installation of three shallow monitoring wells, the sampling of which further confirmed significant contamination of onsite and offsite areal groundwater. On October 30, 2000, the Executive Officer issued Cleanup and Abatement Order R1-2000-78 (Order R1-2000-78), which required further collection of technical data to define the vertical and horizontal extent of Site contamination as well as development of a public participation plan, a feasibility study, and a remedial action plan.
9. Work conducted in accordance with Order R1-2000-78 directives included submittal of a public participation plan, advancement of four deep borings for collection of soil and groundwater data using a cone-penetrometer rig, and installation of five shallow and five deep monitoring wells.
10. Groundwater testing in September 2002 of offsite monitoring wells approximately 300 feet downgradient of the former service station and dry-cleaners revealed gasoline contamination at 13,000 ppb and PCE contamination at 12,000 ppb. Testing in September 2002 also detected gasoline up to 230 ppb and PCE up to 530 in deep wells monitoring groundwater conditions near the bottom of the aquifer, 40 feet below ground surface. Elevated concentrations of dissolved iron up to 4,800 ppb and dissolved manganese up to 1,900 ppb were reported in Site monitoring wells.
11. Site groundwater has been impacted with gasoline, PCE, iron, and manganese. Shallow groundwater is 7 to 10 feet below the ground surface. The affected aquifer extents from the water table to approximately 49 feet below ground surface. The potential beneficial uses of areal groundwater include:
 - a. domestic water supply
 - b. agricultural supply
 - c. industrial supply
12. The Site is located approximately 7 blocks upgradient from Humboldt Bay. The beneficial uses of Humboldt Bay include:
 - a. industrial supply
 - b. navigation
 - c. water contact recreation
 - d. non-contact water recreation
 - e. ocean commercial and sport fishing
 - f. saline water habitat
 - g. wildlife habitat

- h. preservation of rare and endangered species
 - i. marine habitat
 - j. fish migration
 - k. fish spawning
 - l. shellfish harvesting
13. The Dischargers named in this Order have caused or permitted, cause or permit, or threaten to cause or permit waste to be discharged where it is, or probably will be, discharged into waters of the State and creates, or threatens to create, a condition of pollution or nuisance. The discharge and threatened discharge of contaminants has unreasonably affected water quality in that the discharge or threatened discharge is deleterious to the above described beneficial uses of State waters, and has impaired water quality to a degree which creates a threat to public health and public resources and, therefore, constitutes a condition of pollution or nuisance. These conditions threaten to continue unless the discharge or threatened discharge is permanently cleaned up and abated.
14. The California Water Code, and regulations and policies developed thereunder, require cleanup and abatement of discharges and threatened discharges of waste to the extent feasible. Cleanup to background levels is the presumptive standard. Any proposed alternative that will not achieve cleanup to background levels, must be supported with evidence that it is technologically or economically infeasible to achieve background levels, and that the pollutant will not pose a substantial present or potential hazard to human health or the environment for the duration of the exceedence of background levels (SWRCB Res. 68-16 and 92-49, 23 CCR section 2550.4, subs. (c) & (d)).
15. Cleanup and abatement activities required by Order R1-2000-78 remain to be performed at the Site and require a revised time schedule. These activities include, but are not limited to development of a Feasibility Study, a draft Remedial Action Plan, development and implementation of a Remedial Action Workplan.
16. Monitoring activities required by Monitoring and Reporting Program Order No. R1-2000-79 remain to be performed at the site, but must be supplemented to include the expanded monitoring well network.
17. Water quality objectives exist to ensure the beneficial uses of water. Several beneficial uses of water exist, and the most stringent objective for protection of all beneficial uses is selected as protective for water quality. A listing of the water quality objectives for waters of the State affected by discharges from the Site is included as Attachment B to this Order.
18. Discharge prohibitions contained in the Basin Plan apply to this Site. State Water Resources Control Board Resolution 68-16 applies to this Site. State Water Resources Control Board Resolution 92-49 applies to this Site and sets out the "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Section 13304 of the California Water Code."
19. Reasonable costs incurred by Regional Water Board staff in overseeing cleanup or abatement activities are reimbursable under Section 13304(c)(1) of the California Water Code.

20. The Regional Water Board will ensure adequate public participation at key steps in the remedial action process, and shall ensure that concurrence with a remedy for cleanup and abatement of the discharges at the Site shall comply with the California Environmental Quality Act (Public Resources Code Section 21000 et seq. ("CEQA")).
21. The issuance of this Cleanup and Abatement Order is an enforcement action being taken for the protection of the environment and, therefore, is exempt from the provisions of CEQA in accordance with Sections 15308 and 15321, Chapter 3, Title 14 of the California Code of Regulations.
22. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Water Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. To be timely, such requests must be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights.

THEREFORE, IT IS HEREBY ORDERED that, except for the purposes of enforcement of past violations, Monitoring and Reporting Program No. R1-2000-78 and Cleanup and Abatement Order No. R1-2000-78 are hereby rescinded, and that pursuant to California Water Code Sections 13267(b) and 13304, the Dischargers shall cleanup and abate the discharge and threatened discharge and shall comply with the following provisions of this Order:

1. The Dischargers shall conduct all work under the direction of a California registered engineer or geologist experienced in pollution investigation and cleanup in accordance with all local ordinances. All necessary permits shall be obtained.
2. By **July 1, 2003**, the Dischargers shall submit a Feasibility Study evaluating a minimum of three appropriate cleanup and abatement alternatives for the Site to address both gasoline and PCE contamination in soil and groundwater. The Feasibility Study shall: summarize each of the remedial alternatives considered; compare relative costs; and estimate the amount of time each method will require to reach applicable water quality objectives. The Feasibility Study shall also identify the preferred remedial alternative(s) and shall be in a form satisfactory to the Executive Officer.
3. By **November 7, 2003**, the Dischargers shall submit, for Executive Officer concurrence, a draft Remedial Action Plan to address the proposed final soil and groundwater cleanup activities, including a post remedial action monitoring program, which will evaluate the effectiveness of soil and groundwater cleanup actions.

4. Following Executive Officer concurrence, and no later than **April 2, 2004**, the Dischargers shall submit the final Remedial Action Plan (RAP) including all necessary revisions identified during the public review and comment period in a form satisfactory to the Executive Officer.
5. The Dischargers shall comply with Provisions of Monitoring and Reporting Program Order No. R1-2003-0054.
6. The Dischargers shall promptly pay, in accordance with the invoicing instructions, all invoices for costs associated with Regional Water Board oversight.
7. If, for any reason, the Dischargers are unable to perform any activity or submit any documentation in compliance with the work schedule submitted pursuant to this Order and approved by the Executive Officer, the Dischargers may request, in writing, an extension of the time as specified. The extension request shall include justification for this delay. An extension may be granted for good cause, in which case this Order may be accordingly revised.

Ordered by: _____

Susan A. Warner
Executive Officer

April 4, 2003

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